

Appln No. 10/799,143
Amdt date July 18, 2011
Reply to Office action of February 16, 2011

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office action mailed February 16, 2011. Claims 1, 10, 11, 14, 35-40, and 42 have been amended. Claims 12-13, 21-22, 25, 27-28, and 33-34 have been canceled without prejudice. New claims 43 and 44 have been added to more completely cover certain aspects of the invention. Claims 3-4, 6, 16-20, 23-24, 26, and 29-32 were previously cancelled. Claims 9-11, 14, and 15 were previously withdrawn from consideration. Accordingly, claims 1-2, 5, 7-11, 14-15, 35-44 are presently in the application.

On pages 2-5 of the Office action, claims 1, 2, 7-8, 21, 22, 27, 29-32, 35-36, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehdian (U.S. Patent No. 5,217,497) in view of John R. Walker, Machining Fundamentals - Fundamentals Basic to Industry ("Walker"). On pages 5-6 of the Office action, claims 5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehdian (U.S. Patent No. 5,217,497) in view of John R. Walker, Machining Fundamentals - Fundamentals Basic to Industry ("Walker") further in view of Harms et al. (U.S. Patent No. 5,873,878). On pages 6-7 claims 6 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehdian (U.S. Patent No. 5,217,497) in view of John R. Walker, Machining Fundamentals - Fundamentals Basic to Industry ("Walker") further in view of Hall (U.S. Patent No. 4,041,939). On pages 7-8 of the Office action, claims 33-34 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehdian (U.S. Patent No. 5,217,497) in view of John R. Walker, Machining Fundamentals - Fundamentals Basic to Industry ("Walker") further in view of Jackson (U.S. Patent No. 6,224,596). Applicant respectfully traverses the rejections.

Claim 1 has been amended to include the limitation in claim 33 ("an entire length of the securing element in the axial direction is equal to or less than the determined distance (A)") and claim 33 is cancelled. During the examiner interview on June 14, 2011, the Examiner agreed that the amendment would overcome the rejection of claim 33 based on Mehdian, Walker and Jackson. In particular, one having skill in the art would not make the device of Mehdian with a securing device being flush with the receiving part, in view of Jackson, because it would require significant modification of Median (e.g., removal of the collar 14 and the outer peripheral

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portion of the clamping screw 15). Alternatively, Jackson discloses that the securing element is flush with the receiving part. Applying this to Mehdian, however, would place the securing nut flush with the clamping screw 15 and this distance is greater than the distance (A) from the rod to the exterior surface of the receiving part.

Claim 1 has also been amended to more completely cover certain aspects of the invention. Claim 1 now recites that the shaft is for anchoring "to a vertebrae," instead of "in a vertebrae." Claim 1 also now recites a "rod for connecting to the shaft" and a receiving part "that is structured and arranged to connect the rod to the shaft. A receiving part "connected to the shaft" is deleted. Claim 1 further recites that the first internal thread extends from a first location "at or adjacent" the exterior end surface of the receiving part. Claim 1 accordingly now covers both a receiving part having a first internal thread extending from the exterior end surface and a first internal thread adjacent the exterior end surface. The latter feature was previously covered in claim 21. Accordingly, claim 21 is cancelled without prejudice.

Withdrawn claim 10 has been amended to include many of the limitations in claim 1.

Claims 35-36 are amended to further define "four full turns."

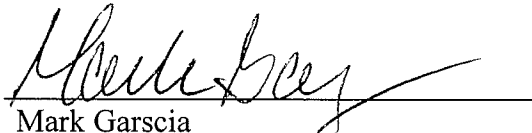
New claim 43 recites a "monolithic securing element comprising a screw member having a first external thread comprising fewer than four full turns and wherein threading of the first external thread of the securing element to the first internal thread of the receiving part results in contact between the securing element and a portion of the rod located between the two legs of the receiving part." Applicant respectfully submits that the combination of Mehdian, Walker and Jackson fails to disclose this feature. In particular, the securing element 18 in Mehdian does not contact the rod and the locking screw 24 has more than four full turns of the thread.

Claims 2, 5, 7-9, 11, 14, 15, 35-42 and 44 depend from one of claims 1, 10, and 43. Because these dependent claims contain additional limitations further distinguishing these claims from the cited art when considered as a whole, these claims are also believed to be patentable.

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In view of the above, applicant respectfully requests reconsideration of the application and allowance of claims 1-2, 5, 7-11, 14-15, 35-44.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 
Mark Garscia
Reg. No. 31,953
626/795-9900

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